

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

KENNETH RAY PITTS
ADC #085938

PLAINTIFF

v. **No. 5:19-cv-297-DPM**

THOMPSON, Nurse; MERRILL,
Nurse; C. DANIELS, Major; T. GIBSON,
Supervisor; THOMAS, Lieutenant;
and A. F. CULCLAGER, Warden

DEFENDANTS

ORDER

This case has gotten tangled. The Magistrate Judge asked Pitts to file an amended complaint to clear up some facts and to submit any grievances or medical records that might support his claim that he's in imminent danger. *No 6 at 2-3; No 13 at 1.* Instead of filing an amendment, Pitts objected to the request for grievances and records, arguing that his claims should be accepted as true at this stage. *No 15 at 2.* The Magistrate Judge now recommends that Pitts's complaint be dismissed for failing to show imminent danger. *No 17.* Pitts objects. *No 18.*

On *de novo* review, the Court sustains Pitts's objections, *No 15 & No 18*, and respectfully declines the recommendation, *No 17*. FED. R. Civ. P. 72(b)(3). Pitts says he's supposed to take two doses of blood pressure medicine each day – one in the morning and one before bed.

But he says the before-bed dose is sometimes not being delivered until the early morning hours of the next day, resulting in his only getting one dose in a twenty-four hour period. Pitts says: his family has a history of problems related to high blood pressure; his blood pressure was difficult to control when he first started taking medicine; and he's worried he might have a stroke or heart attack because of the medication delays. *No 2 at 5-6; No 7 at 6-7 & 8-9.* Taking Pitts's allegations as true and drawing reasonable inferences in his favor, his papers have plausibly pleaded imminent danger of serious physical injury if these medication issues continue. 28 U.S.C. § 1915(g). The Court therefore returns the case to the Magistrate Judge for further proceedings.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

20 November 2019